of the acts establishing the boundaries. A comparison of the decisions scarcely supports this distinction. Both *Nebraska* v. *Iowa,* supra, and the *Buttenuth* case have recently been cited with evident approval by the Supreme Court in *Missouri* v. *Nebraska,* 196 U. S. 23.

TAXATION—SITUS OF CREDITS.—The city of New Orleans sought to tax the loans of a New York insurance company made in Louisiana by an agent residing within that city. The loans were made on the company's own policies by the agent, the consent of the home office being first obtained in each case. The notes and policies, as soon as taken, were sent to the home office and kept there until time for payment, when they were returned to the agent by whom they were delivered back to the makers, if paid. *Held,* that such credits are taxable within the state where the business of loaning the money is conducted, and the attempted tax is lawful. *Metropolitan Life Insurance Co. of New York* v. *City of New Orleans* (1907), 205 U. S. 395, 27 Sup. Ct. Rep. 499.

In this case both the residence of the owner and the evidences of the debts were without the state. The court says that this is immaterial as the insurance company chose to enter into the business of loaning money within the state of Louisiana, employed an agent there, and conducted such business under the laws of that state. The credits obtained a business situs in Louisiana and are taxable there. See following note; also, *Bristol* v. *Washington County,* 177 U. S. 133.

TAXATION—SITUS OF CREDITS.—The state of Indiana brought an action to collect taxes on certain notes secured by mortgages on property in Ohio, held by an Indiana agent of a resident of New York. The Ohio loans were made in Ohio by an agent of the creditor residing there, but were immediately sent to the Indiana agent where the same were kept. When due, the notes were returned to Ohio for payment or renewal, and once each year all the notes were sent to Ohio for a few days to evade taxation in Indiana. *Held,* that the tax in Indiana was illegal as taking property without due process of law. *Buck* v. *Beach, Treasurer of Tippecanoe County, Indiana* (1907), 206 U. S. 392, 27 Sup. Ct. Rep. 712.

Considerable confusion prevails among the courts as to the situs of intangible personal property for purposes of taxation. The courts quite generally hold that the jurisdiction where the owner resides has the power to tax such property. *Scripps* v. *Board of Review,* 183 Ill. 278; *State* v. *Gaylord,* 73 Wis. 316; *Ferris* v. *Kimble,* 75 Tex. 476; *Bullock* v. *Guilford,* 59 Vt. 516. They, also, recognize that a situs may be established apart from the residence, and where evidences of the debt are left with an agent of another state for the purpose of managing and re-loaning in that state, the property has a business situs in such state and is taxable there. *Catlin* v. *Hull,* 21 Vt. 152; *Billinghurst* v. *Spink County,* 5 S. D. 84; *Grant* v. *Jones,* 39 Ohio St. 506; *Finch* v. *County,* 19 Neb. 50; *In re Jefferson,* 35 Minn. 215. Thus property may be subject to double taxation. Many of the decisions seem to emphasize the fact that such debts are in concrete form and intimate that the location of

such evidences of debt within the state gives it jurisdiction for the purposes of taxation. *Haywood* v. *Board of Review,* 189 Ill. 234; *People* v. *Smith,* 88 N. Y. 576; JUDSON, TAXATION, § 396. The United States Supreme Court has used language which would seem to support this view. *New Orleans* v. *Stempel,* 175 U. S. 309; *State Board of Assessors* v. *Comptoir National,* 191 U. S. 388. In all such cases, however, a business of loaning money to persons within the state was conducted by the agent. Wherever such a business situs is established, the credits are there subject to taxation regardless of the location of the evidences of the debts. *Bristol* v. *Washington County,* 177 U. S. 133; *Metropolitan Life Insurance Co.* v. *New Orleans* (see preceding note). The court in the principal case says that such a business situs was not established in Indiana, and the business of making the loan in question was not conducted under the laws of that state; and that promissory notes, evidences of simple contract debts, are not property for the purposes of taxation. Therefore, the assessment was made on property that was never within the jurisdiction of Indiana. For comment on the decision of this case by the Supreme Court of Indiana see III MICHIGAN LAW REVIEW, p. 244.

WILLS—EQUITY—JURISDICTION.—Testator devised all of his lands to his six living children, providing that "if one sells, sell it to one of six, and if one dies with esue, its part shall go to the other children." A bill in equity was brought by certain of the devisees under this clause to have the court construe the same, and adjudge that the words "with esue" therein be held to mean "without issue," and determine whether certain devisees had a legal right to sell to persons other than devisees under such clause. *Held,* that a court of equity was without jurisdiction of the case made. *Hart et al.* v. *Darter et al.* (1907), — Va. —, 58 S. E. Rep. 590.

The matter of jurisdiction was the only question discussed in the opinion. The court determined that the clause under consideration disposed of purely legal interests and made no attempt to create any trust relation in respect to the land devised. There being no trust relation involved and no other ground of equity jurisdiction shown, the opinion rests upon the conclusion that the bill was properly dismissed. The rule adopted is that stated in *Chipman* v. *Montgomery,* 63 N. Y. 221, 230, "To put a court of equity in motion, there must be an actual litigation in respect to matters which are the proper subjects of the jurisdiction of that court, as distinguished from a court of law. * * * It is by reason of the jurisdiction of courts of chancery over trusts that courts having equitable powers as an incident to that jurisdiction take cognizance of and pass upon the interpretation of wills. They do not take jurisdiction of actions brought solely for the construction of instruments of that character, nor when purely legal rights are in controversy." 3 POMEROY EQ. JUR., § 1156, and cases cited. UNDERHILL ON WILLS, p. 608, and cases cited. The weight of authority is doubtless with the rule above stated, that the jurisdiction over wills is incidental to that over trusts. Wills of personalty stand on a slightly different footing. In such cases it is held that the jurisdiction extends to a construction of the instrument, at the suit of an executor or legatee, although the instrument creates no express trust,